

## Senate File 353 - Introduced

SENATE FILE 353

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### A BILL FOR

1 An Act relating to retail motor fuel sites, by requiring  
2 standards and practices to assist disabled individuals  
3 obtaining motor fuel, providing for enforcement by the  
4 department of agriculture and land stewardship, providing  
5 for a tax credit, and including effective and applicability  
6 date provisions.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 214.1, Code 2017, is amended by adding  
2 the following new subsections:

3 NEW SUBSECTION. 01. "*Americans with Disabilities Act*  
4 *of 1990*" includes Tit. III of the federal Americans with  
5 Disabilities Act of 1990, as provided in 42 U.S.C. §12181 et  
6 seq., its implementing regulations, including 28 C.F.R. pt. 36,  
7 and the 2010 standards for accessible design published by the  
8 United States department of justice.

9 NEW SUBSECTION. 6. "*Refueling assistance device*" means  
10 equipment and any associated programming that allows an  
11 employee of a retail dealer who is located at a retail motor  
12 fuel site to receive communication initiated by an individual  
13 with a disability who is sitting on the driver's side of a  
14 motor vehicle requesting refueling assistance, so long as the  
15 device is capable of being operated by the individual's closed  
16 fist or other method that does not require manual operation.

17 Sec. 2. NEW SECTION. 214.12 **Accessibility of motor fuel**  
18 **pumps — rules.**

19 1. A retail dealer operating a retail motor fuel site shall  
20 comply with the applicable requirements of the Americans with  
21 Disabilities Act of 1990, to the extent required in that Act.

22 2. a. A retail dealer operating a retail motor fuel site  
23 shall offer refueling assistance by the use of a refueling  
24 assistance device accessible at the site by a customer who  
25 is an individual with a disability. However, this paragraph  
26 applies only if the retail dealer does any of the following:

27 (1) Constructs a structure that is part of a new retail  
28 motor fuel site, including a building, motor fuel pump, or a  
29 motor fuel storage tank.

30 (2) Constructs a new structure or modifies or replaces a  
31 structure that is part of an existing retail motor fuel site,  
32 including but not limited to the exterior or interior of any  
33 building, a motor fuel pump, or a motor fuel storage tank. A  
34 modification does not include a cosmetic improvement or minor  
35 repair. A replacement does not include the incidental exchange

1 of parts or materials.

2     *b.* A retail dealer shall provide refueling assistance under  
3 paragraph "a" by doing all of the following:

4       (1) Displaying two signs indicating that the retail motor  
5 fuel site offers refueling assistance as follows:

6       (a) The first sign shall bear the international symbol  
7 of accessibility and be posted in a conspicuous place on  
8 the marquee where retail sales prices are advertised. The  
9 sign shall notify the traveling public that the retail motor  
10 fuel site offers refueling assistance to individuals with  
11 disabilities. The sign shall be at least eighteen inches in  
12 width and twenty-four inches in height.

13       (b) The second sign shall notify customers of the hours  
14 that refueling assistance is available. The second sign shall  
15 be posted near a motor fuel pump where a refueling assistance  
16 device is located as provided in subparagraph (2) and be easily  
17 readable by customers. The sign shall be nine inches in width  
18 and nine inches in height.

19       (2) Installing and maintaining at least one refueling  
20 assistance device that is accessible by a customer who may  
21 request refueling assistance during the hours posted.

22       (a) A refueling assistance device shall be located near the  
23 front side of a motor fuel pump where a customer may dispense  
24 motor fuel. However, only one refueling assistance device is  
25 required to be located at the retail motor fuel site.

26       (b) When used, the refueling assistance device must alert a  
27 retail dealer's employee who is on duty.

28     *c.* Notwithstanding paragraphs "a" and "b", a retail dealer  
29 is not required to provide refueling assistance as follows:

30       (1) The retail motor fuel site is a tank wagon.

31       (2) The retail motor fuel site has two or fewer licensed  
32 motor fuel pumps.

33       (3) At any time that the retail motor fuel site is operating  
34 as follows:

35       (a) With no employee on duty at the retail motor fuel

1 site when the retail motor fuel site is operating on a remote  
2 control basis.

3 (b) With only one employee on duty at the retail motor fuel  
4 site.

5 3. A customer shall not incur any additional expense for  
6 requesting refueling assistance as provided in this section.

7 4. The department shall adopt rules to provide standards  
8 for retail dealers operating retail motor fuel sites in  
9 implementing the provisions of this section.

10 Sec. 3. NEW SECTION. 214.13 **Accessibility of motor fuel**  
11 **pumps — enforcement.**

12 1. During its regular inspection of motor fuel pumps at  
13 a retail motor fuel site as provided in section 214.11, the  
14 department shall determine whether a retail dealer is in  
15 compliance with section 214.12, including rules adopted by the  
16 department under that section.

17 2. Upon determining that a violation of section 214.12  
18 requires corrective action, the department shall notify the  
19 retail dealer. The retail motor fuel site or the retail  
20 dealer's practices, as applicable, shall be modified to  
21 correct the violation within six months after the retail dealer  
22 receives such notice.

23 3. The department shall inspect a retail motor fuel site  
24 if it determines on the basis of the receipt of three or more  
25 complaints that a violation of section 214.12 may require  
26 corrective action.

27 4. Upon determining that a retail dealer has violated  
28 section 214.12, and has failed to comply with a notice for  
29 corrective action as provided in this section, the department  
30 may suspend one or more licenses issued under this chapter to  
31 operate motor fuel pumps located at the retail motor fuel site  
32 where the violation is occurring. If the department suspends  
33 a license, the department shall suspend the license until it  
34 determines that the violation has been corrected.

35 Sec. 4. NEW SECTION. 422.11K **Accessibility of motor fuel**

1 pumps tax credit.

2 1. The taxes imposed in this division, less the credits  
3 allowed under section 422.12, shall be reduced by an  
4 accessibility of motor fuel pumps tax credit.

5 2. The taxpayer must qualify as all of the following:

6 a. A retail dealer who sells and dispenses motor fuel  
7 through a motor fuel pump located at the retail dealer's  
8 permanent retail motor fuel site operating in compliance with  
9 chapter 214.

10 b. An eligible small business as defined in 26 U.S.C. §44.

11 3. a. A taxpayer may claim a tax credit for providing  
12 refueling assistance to customers as provided in section  
13 214.12. However, the taxpayer must comply with the  
14 requirements of section 214.12, regardless of when the retail  
15 motor fuel site was constructed.

16 b. This section does not require that a taxpayer be eligible  
17 to claim a tax credit under 26 U.S.C. §44 or actually claim a  
18 tax credit under that section.

19 c. A taxpayer may claim a tax credit as provided in this  
20 section only if the taxpayer is not required to provide  
21 refueling assistance under section 214.12, subsection 2.

22 4. The taxpayer must file a claim for a tax credit and  
23 any required supporting documentation in a form and manner  
24 prescribed by the department.

25 5. The amount of a tax credit under this section shall not  
26 exceed actual and necessary expenditures incurred by a retail  
27 dealer in preparing and displaying signs and installing a  
28 refueling assistance device as required in section 214.12.

29 6. The amount of a tax credit shall not exceed five hundred  
30 dollars for each retail motor fuel site where the retail dealer  
31 sells and dispenses motor fuel and where the retail dealer  
32 provides refueling assistance as provided in subsection 5.

33 7. If a tax credit is allowed, the amount of the tax credit  
34 claimed shall not be deductible under any other provision of  
35 law in determining taxable income for state tax purposes.

1     8. An individual may claim the tax credit allowed a  
2 partnership, limited liability company, S corporation, estate,  
3 or trust electing to have the income taxed directly to the  
4 individual. The amount claimed by the individual shall be  
5 based upon the pro rata share of the individual's earnings of  
6 the partnership, limited liability company, S corporation,  
7 estate, or trust.

8     9. a. A tax credit in excess of the taxpayer's liability  
9 for the tax year is not refundable but may be credited to the  
10 tax liability for the following five years or until depleted,  
11 whichever is earlier.

12    b. A tax credit shall not be carried back to a tax year  
13 prior to the tax year in which the taxpayer claims the tax  
14 credit.

15    Sec. 5. Section 422.33, Code 2017, is amended by adding the  
16 following new subsection:

17    NEW SUBSECTION. 11. The taxes imposed under this division  
18 shall be reduced by an accessibility of motor fuel pumps tax  
19 credit. The taxpayer may claim the tax credit according to the  
20 same requirements, for the same amount, and calculated in the  
21 same manner, as provided in section 422.11K.

22    Sec. 6. EFFECTIVE DATES.

23    1. Except as provided in subsection 2, this Act, being  
24 deemed of immediate importance, takes effect upon enactment.

25    2. The provisions of this Act enacting section 214.12,  
26 subsection 2, requiring that signs and a refueling assistance  
27 device be located at a retail motor fuel site take effect  
28 January 1, 2018.

29    Sec. 7. APPLICABILITY. The sections of this Act enacting  
30 section 422.11K and section 422.33, subsection 11, apply to tax  
31 years beginning on or after January 1, 2018.

32                                   EXPLANATION

33                   The inclusion of this explanation does not constitute agreement with  
34                   the explanation's substance by the members of the general assembly.

35    GENERAL. This bill provides that a retail dealer (dealer)

1 operating a retail motor fuel site (site) selling motor fuel,  
2 including gasoline, E-85 gasoline, and diesel fuel dispensed at  
3 a motor fuel pump (pump) must comply with the federal Americans  
4 with Disabilities Act (ADA). In addition, the dealer must  
5 offer refueling assistance to a disabled customer upon request.  
6 This includes posting signs at the site and installing a  
7 refueling assistance device (e.g., a call button) near a pump  
8 which can be used by the customer to alert a dealer's employee  
9 that assistance is requested. The bill provides for the  
10 enforcement of its provisions by the department of agriculture  
11 and land stewardship, including during routine and special  
12 inspections. Finally, the bill provides an income tax credit  
13 to certain dealers for providing refueling assistance.

14 EFFECTIVE AND APPLICABILITY DATES. The bill's provisions  
15 requiring a dealer to comply with the ADA and the department  
16 to conduct regular inspections take effect on upon enactment.  
17 The other provisions take effect on January 1, 2018. The tax  
18 credit applies to tax years beginning on or after January 1,  
19 2018.